EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

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IN RE:	:	No. 3:14-MD-2516(SRU)
	:	915 Lafayette Boulevard
AGGRENOX ANTITRUST LITIGATION	:	Bridgeport, Connecticut
	:	
	:	October 14, 2016

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MOTIONS HEARING

B E F O R E:

THE HONORABLE STEFAN R. UNDERHILL, U. S. D. J.

A P P E A R A N C E S:

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URIEL RABINOVITZ, ESQ.

(continued)

MR. HOLDING: But if the prediction was -- I guess you and I have a different set of expectations of what discovery would show. I'm anticipating that there's -- there certainly is an actual document that says last year for Aggrenox we actually spent whatever to cover it, and that gets built into an analysis that says how are we doing, are our premiums covering it? Now, we might have to do it for Lipitor and a whole bunch of other things as well, but it's part of detailed, data-driven analysis that says where are we going in the future.

THE COURT: No one is buying Aggrenox insurance. They're buying prescription drug coverage.

MR. HOLDING: Correct.

THE COURT: And so the insurance companies are making all kinds of assumptions about how many people are going to buy this versus buy that, what's the cost of this versus the cost of that. It's a grain of sand on the beach in terms of setting -- in terms of setting premiums.

MR. HOLDING: Well, I think that we should be given the opportunity to determine what does the data actually show because if they have, if it turns out, Judge, that your instinct on this one is just wrong, and the data shows that they are addressing it and they are building it into the premium and that the premiums are covering their costs, then I think the law is clear they

haven't suffered an actual damage. And so this part of the table too is going to be asking us for an enormous amount of money based on their actual damages, and we want to say, Look, it turns out you did a good job, you covered it correctly, you weren't harmed, and we should be entitled to investigate that.

THE COURT: Well, yes, you can investigate it. What I'm looking for is an actuary who says, We changed our rates based upon something that happened with Aggrenox, up or down, not -- as opposed to we changed our rates because of our predictions about what our policyholders are going to spend on prescription drugs. And the fact that Aggrenox is a prescription drug doesn't get you what you want. It has to be, We are concerned about Aggrenox, it is so widespread, and the price is so critical to the way we value or we adjust our premiums that when the price of -- in fact, we have a ticker around our office that shows the price of Aggrenox on a wholesale and retail basis, and when it ticks, we start getting nervous about changing our premiums.

MR. HOLDING: So, again, the record isn't before us. What one question is, let's go look for those documents. Let's see what they have.

THE COURT: What documents?

MR. HOLDING: Do they have documents that

demonstrate that in the process of figuring out their premiums from one year and then figuring out how did they do and then figuring out what do they need to do the next year, are there actually documents that show that they considered Aggrenox or not, because if documents show it, that means it's built in and they're covering it.

THE COURT: You know, this is like not a fishing expedition, it's like a flotilla. I mean, the net is getting cast so widely here that it's going to catch every minnow in the sea.

MR. HOLDING: I really have a hard time -- obviouly, you and I see this very differently. I have a hard time understanding that. I think the net is being cast very specifically. It's saying, You guys are saying that you were harmed, and we're saying we think you're not out of pocket because you got the money from these other people. So were you harmed or were you not? Does the premium in fact cover you for this cost? That's what we want to know.

I think that is -- that is probably one of the key questions for the damages claims that the EPPs are going to put on, were they harmed or not. They paid, they certainly had an outflow of money, but that's not the legal standard for them. The question is, did somebody else reimburse you for that, and we think the answer is

going to show the answer is yes. Whether it was the whole amount or half of it or something else, it offsets their damages.

THE COURT: A premium is not a reimbursement. A premium is the cost for the right to demand a reimbursement. So it's not --

MR. HOLDING: A prepayment of the cost that they're going to have to pay. It's a prepayment. Whether --

THE COURT: No, no, it's not a prepayment. It's insurance. I don't know what health problems I'm going to have in the next year. Maybe my doctor is going to prescribe Aggrenox. I bought Blue Cross/Blue Shield. It's going to cover me. I don't have to worry. I'm buying peace of mind, and the insurance company is providing me with peace of mind and absorbing the risk that I get prescribed Aggrenox or anything or I break my arm or whatever.

MR. HOLDING: But Humana says, I have a bunch of enrollees, and some, hopefully a large number of them, are going to continue next year and stay with me and not go to Cigna or Aetna or somebody else, and they have data experience that says we know that for our enrollees last year, there were a whole bunch of them that took Aggrenox, and it cost us "X," and it's probably likely that they're

going to stay here with us and not go to Aetna, and because Aggrenox is the kind of drug you're supposed to take for a long time, they're going to continue to take that. So as we think about what our costs are, for them it's not insurance, it's we have a cost that we're virtually certain we're going to have to pay. We can't just pay it all ourselves because we'll go out of buiness. We need money from these guys to help pay for it.

THE COURT: But it's not a reimbursement. It's a prediction. It's a prediction that the insured is going to stay on Aggrenox, it's a prediction that they're not going to use a substitute, it's a prediction they're not going to die, it's a prediction that they're not going to get better. I mean, it's too many variables. The price of Aggrenox is a piece of sand, a grain of sand on the beach in terms of setting premiums. If there were one drug in America and Aggrenox were it, yes, you would get this discovery. You probably still would not have a good legal argument, but you'd get the discovery. But when you have hundreds of thousands of drugs, the idea that any one of them is driving the premium is nonsensical.

MR. HOLDING: I certainly am not suggesting that Aggrenox by itself is responsible, but I do think that the portion of the premium that is built on the prescription drug benefit, that is itself an amount that's based on the

aggregation of a bunch of individual costs. That's how actuaries work. Otherwise, actuaries would just be guessing and throwing a dart against the wall. And that's what actuaries do.

THE COURT: And so people who never took Aggrenox, never had to buy Aggrenox are paying for it, and people who took Aggrenox are paying for it, and they're paying for it in the same way, through a premium. That's not a reimbursement of the --

MR. HOLDING: I agree with you factually that that's probably what happens, but the question is, how do the funds flow? Follow the money. It sounds like Watergate. How do the funds flow? And if they're getting an offset, that means they're not suffering actual damages, whether it happens --

THE COURT: It's not an offset.

MR. HOLDING: -- before or after.

THE COURT: It's not an offset. They're making predictions about how many people are going to sign up for their insurance plan. If they get another hundred thousand people to sign up, they can reduce the price even if the price of all drugs are going up. Why? Because they have that many more people among whom to spread the risk. It just doesn't work. It's insurance. It's not an offset. This is not -- it's not a rebate.

EXHIBIT B

FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

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IN RE: *
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LOESTRIN 24 FE ANTITRUST * SEPTEMBER 11, 2019
LITIGATION *
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* * * * * * * * * * * * * * * PROVIDENCE, RI

BEFORE THE HONORABLE WILLIAM E. SMITH

CHIEF JUDGE

(Motions for Summary Judgment)

APPEARANCES:

FOR THE PLAINTIFFS: (End-Payor Plaintiffs)	STEVE D. SHADOWEN, ESQ. Hilliard & Shadowen 919 Congress, Suite 1325 Austin, TX 78701
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11 SEPTEMBER 2019 -- 10:00 A.M.

THE COURT: Good morning, everyone. We're here in the matter In Re: Loestrin 24 Antitrust Litigation. Before we get started, it occurs to me it's almost exactly this time 18 years ago when we saw the first planes hit the Twin Towers and I thought it might be appropriate if we took just a moment of silence to recognize the importance of this date and this moment in our history, so I ask you just to do that.

(Pause)

THE COURT: All right. Thank you. So we have a lot to do today. I'd like to just get started with having you enter your appearances for the record, and then we'll talk a little bit about how the day will progress and then begin the arguments.

MR. SOBOL: Good morning, your Honor. Thomas Sobol, Hagens Berman Sobol Shapiro, for the Direct Purchasers.

MS. JOHNSON: Good morning, your Honor. Kristen Johnson for the Direct Purchasers.

MR. REFSIN: Good morning, your Honor. Barry Refsin for the Retailer Plaintiffs CVS and Rite Aid.

MR. SHADOWEN: Good morning, your Honor. Steve Shadowen on behalf of the End-Payor Plaintiffs.

MR. GIDLEY: Your Honor, good morning. Mark Gidley for Defendants Warner Chilcott and Watson.

MR. HAMBURGER: Good morning. Michael Hamburger for the Warner Chilcott and Watson Defendants.

MR. MILNE: Good morning, your Honor. Robert Milne on behalf of Warner Chilcott.

MS. BENJAMIN: Good morning, your Honor. Nicole Benjamin also on behalf the Warner Chilcott and Watson Defendants.

MS. PHILLIPS: Good morning, your Honor. Jaclyn Phillips for the Warner Chilcott and Watson Defendants.

THE COURT: All right. Thank you.

Anyone else who needs to enter their appearance? It doesn't look like it. I have a list of those expecting to have speaking roles today. I'm not sure how you've broken this up.

MR. VAN TINE: Matthew E. Van Tine, your Honor, for Plaintiffs. You might hear from me briefly at the end of the day.

THE COURT: Okay.

Mr. Sobol.

MR. SOBOL: If I may, your Honor. So the parties spoke briefly. My colleague, Mr. Shadowen, has an engagement so he must leave at around 4:00 or

planet in a complicated case of this sort with the issues you just heard about this morning would be counseling his or her client that, you know, you've got an 85 percent for sure chance of winning.

THE COURT: Well, Plaintiffs found one, --

MR. MILNE: They paid them.

THE COURT: -- Mr. Lentz. And maybe two; right?

MR. MILNE: Well, if you're looking for actual advice rather than, you know, paid advice, paid testimony, I don't think you're going to get a patent lawyer to tell you that you got an 85 percent chance of winning when you have money on the line and you're deciding what to do in litigation.

And the thing that's even doubly implausible about this, your Honor, is that it requires the assumption that both sides share that view, which is also utterly implausible. And when you take a step back and think about what you heard about this this morning, the Schering or Bayer, I guess they went through some corporate transactions along the way, but a company as sophisticated as Bayer would have for that same patent chosen not to litigate -- because, again, the assumption is everybody in the world is supposed to understand that there's an 85 percent chance or 85 percent near certainty that this patent is going to

be invalidated, that a company like Bayer would decide, okay, I'm going to forego that and I'm going to agree to pay licenses and royalties to the tune of a hundred million dollars over time. It's just implausible in the extreme and certainly not enough to create a jury issue for a trial here, your Honor.

So for all of those reasons and the reasons that are covered in detail in the briefs, we --

THE COURT: Just to --

MR. MILNE: Sure.

THE COURT: I get it, I get your argument, but aren't you really asking me to draw some inferences in favor of the Defendant here, which is to say that, look, you can make that argument to the jury. Mr. Sobol I think this morning said there are all sorts of reasons why a company might decide not to bring the invalidity defense and the patent litigation, that you're getting into the tactics that, you know, so forth and so on; and this is the flip side of that from a common sense point of view, well, maybe so, but who would pay a hundred million dollars if they thought they had an 85 percent chance to win.

Why isn't all of that sort of fodder for experts to talk about to a jury and let a jury figure out? You know, if I was a, well, if I was a CEO of a major

pharmaceutical company or a patent lawyer, that's what I would have said, or not said, or whatever.

MR. MILNE: Well, your Honor, I think where I would start is the failure of proof as to anyone actually considering this in the real world because, remember, that's what we have to look at. Would these parties -- not might they have or what their incentives have been -- would they have entered into an alternative settlement with an earlier entry date. And as I mentioned, there's zero evidence that Warner Chilcott ever would have considered it, ever would have entertained the idea of settling it at a different entry date, and no suggestion whatsoever in the evidence along those lines.

So then to have to rely entirely on probabilistic analyses like these that depend on, I would submit, facially untenable assumptions about everybody assuming near certainty of one side winning isn't enough to get you to the jury. And I would commend your Honor's attention to the *Wellbutrin* Third Circuit decision. If we could go to that slide, Dan.

There the Third Circuit granted summary judgment for failure of proof on injury causation and, you know, one of the legs of the argument that the plaintiffs made is this alternative settlement/earlier entry date

argument. But there, the plaintiffs had evidence that there actually was some negotiation between the parties about an alternative settlement that would not necessarily have involved the challenged types of payments. And there, the Third Circuit said even that's not enough, even that's too speculative. And we've got some of the quotes there, your Honor. This is not some more relaxed inquiry. This is actual proof needs to be brought forward that this would have happened.

And so what I would say to you in response to your question is the expert testimony that you were describing, total speculation; it needs to be grounded in some evidence that is completely lacking here. So if your Honor doesn't have any more questions on causation, I'd like to move on, if I could, to the reverse payment issues.

THE COURT: Yes.

MR. MILNE: And so on reverse payment, your Honor, we submit that the Plaintiffs cannot create a triable issue of fact on the existence of a net reverse payment by Warner Chilcott to Watson, let alone one, as I mentioned, that is large; and without that, the ability to create that fact issue, their reverse payment claim fails. We don't need to proceed to all

forecast was made. If we go to the next slide, their response to our statement of undisputed facts concede, and we've got it -- it's maybe hard to read down here, the highlighted snippet at the bottom. They concede that Warner did project the possibility of realizing 30.2 million. There was also a cost component, 4.25 million that you can take out of that spreadsheet as well.

The footnote down at the bottom there, your Honor, shows that the Plaintiffs did quibble with the expense piece and they said that an additional $2 million should have been included as an expense as against these incoming revenues. So what we -- we'll take that, we would contest it ultimately in the case, but for purposes of this motion we'll accept it. So let's go back one, Dan, two, the one that shows us the on the Generess. Okay. So 4.25 plus 2 gives us 6.25 million in expenses, as against the 30.2 in incoming revenue to Warner Chilcott.

So if we jump back, your Honor, to my chart, you see that that's what we put in, 30.2 million in undisputed dollars coming in the door to Warner Chilcott, and 6.25 million in, if you will, sacrificed expenses, however you want to characterize that.

So to the Femring agreement, the Femring

agreement, here the Plaintiffs' expert Mr. Tupman actually did a net present value analysis for the Femring agreement and calculated it as of January of 2009 contemporaneous with the settlement, that the NPV for that agreement was $9.5 million. So again, if we go to the next slide, Dan.

You can see, here's the spreadsheet and the forecast from back at that time that Mr. Tupman used as part of his net present value calculation, and what that shows is that Warner Chilcott calculated that it was $21.2 million better off having this co-promotion agreement than not having it. And the briefs cover the detail here, but this was a product that Warner Chilcott was having bandwidth problems, it wasn't going to be able to promote on its own, so this was not something it was going to be doing itself internally. So this was clearly a benefit, setting aside anything related to the delay or later generic entry date, pure benefit to Warner Chilcott on the four corners of that agreement between the two companies.

We are not going to quibble over the 9.5 or the 21.2 as the net benefit. We'll just go with the lower number that Mr. Tupman put forward, and if we go back to the chart you can see where that comes out. 9.5 million benefit, and the costs and sacrifices are

baked into the net present value, so there's no entry for the cost and expense side. So that's the two business agreements.

Going to the exclusive license piece, here we have the Plaintiffs asserting -- and again, we dispute these things -- but the Plaintiffs asserting various levels of sacrifice by Warner Chilcott for giving up the right for six months to enter with an authorized generic. So Plaintiffs' expert Dr. McGuire has various numbers that he -- you can see his chart there. Some are relating to various product hop scenarios, and then he's got a no hop, he calls it, scenario there at the top with a number of 36.9 million as a claim sacrifice.

As far as we understand, the Plaintiffs continue to assert product hop theories, so it doesn't seem appropriate to use the 36.9 as the high end, but, as it turns out it doesn't matter, and I'll show you that in a few minutes. But the highest number that any of the Plaintiffs have come forward with for a product hop scenario is 29.8 million as a claim sacrifice that Warner Chilcott supposedly made in order to give that exclusivity term.

We have down at the bottom the Retailers' economist, Dr. Leffler. He has a different range, but the max of his range is 21.9 million.

And just a quick digression, because we are going to accept the Plaintiffs' numbers, but these numbers are grotesque overestimates, in our strong view, your Honor.

If we go to the next slide, just hitting a couple of the big ones. This is supposed to be an ex ante at the time analysis, and at the time there was a significant issue as to whether authorized generics were going to remain lawful. Legislation had been introduced in Congress for several sessions before the negotiations began, and there was legislation pending while the negotiations were going on; and then the negotiations were occurring right over the holiday season at the end of the calendar year. So Congress went out of session, came back into session the following year, and within a week or so after the parties signed the settlement agreement at issue here, another bill was introduced in Congress that would have that same effect of outlawing authorized generics altogether. And you have the Obama Administration and others who were taking the position that these were bad and needed to be outlawed.

So the sacrifice you're making by promising not to come to the market with an authorized generic has got to be discounted to some extent for at the time the

uncertainty about whether you were giving up anything at all. If it was going to become unlawful to have an authorized generic at all, you would not be giving up anything, or there would need to be a discount factor.

There's a similar issue on a claimed first-mover advantage that Dr. McGuire uses in his calculations, and I won't cover the detail there, your Honor. It's in the citations that we include on the slide.

If we can go to the next slide. So going back to our chart here, we put in the highest number that the Plaintiffs have as an alleged sacrifice for the product hop, alleged product hop scenario for the exclusive license, and that's 29.8 million, and which brings us to the acceleration clause. And I won't spend any time on that because no one is claiming that there was a profit sacrifice relating to that alleged reverse payment. We think on so many levels, your Honor, that doesn't even qualify because it's a procompetitive provision in its own right, and even the Plaintiffs' expert, Dr. McGuire, conceded that, at least considered in isolation it benefitted Warner Chilcott, so you might even think that we should be able to put a positive in the chart on that one. So that basically is going to the chart, there's no entry necessary for that one.

Bringing us to the saved litigation costs, and here again we're going to use the Plaintiffs' estimate. Their expert, Dr. McGuire, gave a $9.3 million estimate of avoided litigation costs. We again, we think that's an understatement but will accept it for this exercise. We think it's an understatement among other things because it ignores the -- it basically just focuses on how much you had to pay the lawyers. It doesn't factor in the very real costs that go along with having to continue litigation, the inability to plan fully, the distraction that executives have and all of those things which are very real costs.

So if we go back, and I think you know the punch line here. When you do the math this is, again, accepting the Plaintiffs, giving them every benefit of the doubt. You have a 12.95 million net benefit to Warner Chilcott, the opposite of a sacrifice. So that the idea that Warner Chilcott was using these terms as a way to buy delay, it just doesn't, it just doesn't work. And we think that that delta will be even greater if we ever had to go through this issue at trial.

Just as a sensitivity here, I mentioned before there was that 36.9 million which was a no hop scenario. Even if you include that, there is still a

net benefit. And then there's yet one more number I want to show you because I saw it on one of the slides that the Plaintiffs have. They use a $41.1 million number as an alleged sacrifice relating to the exclusivity provision, and that is another one of those hard hop scenarios; and Dr. McGuire withdrew that number when he was confronted with the fact that there were some costs that he clearly had overlooked, and at least in that respect he made a correction which brought it down in, again, in the no hop scenario to the 36.9 number that we have on the prior chart. But again, even if you use that number, still a net benefit.

And so at the end of the day, your Honor, there isn't a fact dispute that Warner Chilcott actually did not sacrifice; actually made more money as a result of this confluence of business agreements and patent settlement than it expended, that you could say it sacrificed. And without that, you don't get to go further in the *Actavis* inquiry because you need to have both. You need to have a sacrifice and then you need to have some significant benefit to the generic, of course, to create the issue of inducement. But without that threshold sacrifice, you don't even get there.

Now the Plaintiffs say, and just very briefly,

your Honor, the Plaintiffs say that, well, it doesn't matter if Warner Chilcott made more money than it expended here. What they say is that it's still a sacrifice if Warner Chilcott didn't make even more, that it didn't make money up to some alleged market value, fair market value level, and that that really is the standard.

I would definitely love to spend more time on this, your Honor, but a couple of quick things. First of all, if the *Actavis* court had intended to have market value, fair market value be the standard, Justice Breyer would have said it. Justice Breyer chose to speak in terms of fair value, not market value. And we believe that was an advertent choice and we think the rules of construction of Supreme Court decisions require you to assume that, but we think it's true here. And one of the ways we think it's true here is, if you go to the next slide, in the briefing before the Supreme Court in the *Actavis* case the defendants were complaining and raising the issue about how difficult it would be to deal with a market value test when you had business agreements being done alongside a patent settlement, because it's just a very difficult thing to administer the idea that -- so for me to know as a business executive can I do this deal, I have to

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WALGREEN CO., ET AL.	:	CIVIL ACTION
PLAINTIFFS	:	
VS.	:	
CEPHALON, INC. ET AL.	:	
DEFENDANTS	:	NO. 09-3956
RITE AID CORPORATION, ET AL.	:	CIVIL ACTION
PLAINTIFFS	:	
VS.	:	
CEPHALON INC., ET AL.	:	
DEFENDANTS	:	NO. 09-3820
GIANT EAGLE, INC. ET AL.	:	
PLAINTIFFS	:	
VS.	:	
CEPHALON, INC., ET AL.	:	
DEFENDANTS	:	NO. 10-5164
APOTEX, INC.	:	CIVIL ACTION
PLAINTIFFS	:	
VS.	:	
CEPHALON, INC., ET AL.	:	
DEFENDANTS	:	NO. 06-2768

PHILADELPHIA, PENNSYLVANIA
WEDNESDAY, JUNE 14, 2017

BEFORE: THE HONORABLE MITCHELL S. GOLDBERG, J

JURY TRIAL
DAY 3

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PROCEEDINGS RECORDED BY STENOTYPE-COMPUTER,
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ALSO PRESENT:

ROBERTA LOOMAR (APOTEX)
HUNTER MURDOCH

(CLERK OPENS COURT.)

THE COURT: GOOD MORNING. WE WANT TO SEE IF WE CAN RESOLVE SOME DISPUTES OVER DEMONSTRATIVE EXHIBITS TO BE USED IN OPENINGS, SO I GUESS WE'RE GOING TO HAVE -- WE'RE GOING TO HAVE TWO OPENINGS FROM THE PLAINTIFFS' SIDE, RIGHT?

MR. ARNOLD: THAT'S CORRECT, YOUR HONOR.

THE COURT: AND ARE THERE EXHIBITS THAT EITHER ONE OF THE PLAINTIFFS' ATTORNEYS WANTS TO USE THAT THERE ARE OBJECTIONS ON?

MR. MATTHEWS: YES, YOUR HONOR. I HAVE A SET OF THE SLIDES, IF I COULD BRING THEM UP TO YOU. I WILL LET MR. BALDRIDGE SPEAK TO WHAT HIS OBJECTIONS ARE. I WANT TO SAY THAT THIS IS NOT GOING TO BE USUAL. WE HAVE WORKED HARD AND WE HAVE NARROWED THE OBJECTIONS.

THE COURT: THAT'S OKAY. THAT IS FINE.

THIS IS WHAT THEY'RE PAYING ME THE BIG BUCKS TO DO, TO RESOLVE.

MR. MATTHEWS: I THINK THAT THE BOTTOM LINE IS IN THIS SET OF SLIDES THAT I AM HANDING YOU, YOUR HONOR, WE ARE PROPOSING USING SEVERAL EXHIBITS, WHICH ARE RANBAXY'S OWN PLEADINGS, AND MR. BALDRIDGE OBJECTS TO THEIR ADMISSION, AND SINCE THEY HAVE NOT BEEN ADMITTED, HE DOES NOT WANT ME TO USE THEM BECAUSE --

THE COURT: LET'S TAKE THEM ONE AT A

AMOUNT, BUT LET'S TAKE IT IN THE CONTEXT OF THE PHARMACEUTICAL INDUSTRY. YOU HAVE TO DECIDE WAS IT A LARGE PAYMENT WITHIN THE CONTEXT AND UNDER THE CIRCUMSTANCES OF WHEN THAT PAYMENT WAS MADE, AND THOSE ARE CIRCUMSTANCES WITH A BUNCH OF PHARMACEUTICAL COMPANIES. IT WAS NOT ME GIVING YOU 26 MILLION, WHICH DARN SURE WOULD PROBABLY CHANGE ONE OF YOUR LIVES. I KNOW IT WOULD CHANGE MINE.

SO LET'S LOOK AT THAT 26 MILLION IN PROPER CONTEXT. THE FIRST THING I WOULD LIKE YOU TO LOOK AT IS YOU ARE GOING TO HEAR FROM AN ESTEEMED DOCTOR IN ECONOMICS. HIS NAME IS DR. BELL, AND HE IS GOING TO TELL YOU THAT THE WORLDWIDE PHARMACEUTICAL MARKET AT THE TIME OF THIS SETTLEMENT WAS 600 BILLION, THAT IS WITH A B, IN SALES. THAT IS THE SIZE OF WORLDWIDE. RIGHT THERE. 600 BILLION, 6.5 BILLION. THAT IS HOW BIG THE WORLDWIDE PHARMACEUTICAL MARKET WAS IN 2005.

IF YOU TAKE PLAINTIFFS' NUMBER, WHICH I DISAGREE WITH, AS I HAVE SAID, OF 26 MILLION THAT THEY CLAIM MY CLIENT WAS PAID AND YOU DIVIDE IT BY THAT 600 MILLION -- OR BILLION, I SHOULD SAY, STATISTICALLY, MY CLIENT WAS PAID 0 PERCENT OF THE WORLDWIDE FINANCIAL -- OF THE WORLDWIDE PHARMACEUTICAL MARKET. 0 PERCENT, IF YOU PUT THIS INTO CONTEXT. IT'S LIKE .0000 SOMETHING. I WENT TO LAW SCHOOL FOR A REASON. I'M NOT VERY GOOD AT

MATH. I WILL TELL YOU STATISTICALLY THAT IT'S 0 PERCENT.

LOOKING AT IT AGAIN FROM PLAINTIFFS' STANDPOINT OF A $26 MILLION PAYMENT THAT THEY ALLEGE AND YOU TAKE THE AMOUNT OF SALES THAT MR. MATTHEWS PUT IN FRONT OF YOU, YOU KNOW, HE SAID $5.7 BILLION IN PROVIGIL SALES. SO IF YOU TAKE THEIR NUMBER, WHAT THEY PAID US, 26 MILLION, AND YOU DIVIDE IT BY 5.7 BILLION, 5.7 BILLION IN PROVIGIL SALES -- AND I WANT TO GET THIS RIGHT -- THAT COMES OUT TO .0045, LESS THAN A HALF OF A PERCENT. LESS THAN ONE HALF OF A PERCENT.

SO WHAT THE PLAINTIFFS' THEORY IS, IS THEIR THEORY IS THAT IT WAS A LARGE PAYMENT FOR CEPHALON TO PAY LESS THAN A HALF OF A PERCENT OF WHAT THEY WERE MAKING OFF THIS BLOCKBUSTER DRUG TO GET US OFF OF THE MARKET. I SAY LOOK AT THE EVIDENCE AND ASK YOURSELF, DOES THAT SOUND LIKE SOMEBODY IS PAYING SOMEBODY TO GET THEM OFF OF THE MARKET, LESS THAN A HALF OF A PERCENT TO PROTECT A 5.7 BILLION FRANCHISE, USING THEIR NUMBER.

NOW, I THINK LOOKING AT "LARGE," STILL FROM THE VIEW OF THEIR $26 MILLION NUMBER, LET'S LOOK AT THE SETTLEMENTS, THE SETTLEMENT AMOUNTS REALLY WITH THE OTHER GENERIC DEFENDANTS THAT SETTLED. MR. MATTHEWS PUT A SLIDE UP, HE HAD THE NUMBERS, RIGHT, IF YOU REMEMBER. IN HIS SLIDE TEVA WAS PAID BY CEPHALON $164 MILLION.

BARR WAS PAID $63 MILLION. MYLAN WAS PAID $48 MILLION. MY CLIENT, RANBAXY, WAS PAID $26 MILLION, ACCORDING TO THEM. AND, AGAIN, I DISAGREE. IF YOU ADD THAT ALL UP, THE TOTAL AMOUNT OF PAYMENTS FROM CEPHALON TO THESE SETTLING GENERIC DEFENDANTS WAS $300 MILLION.

NOW, THAT 300 MILLION IS ACTUALLY 301 SOMETHING. AGAIN, IN GOOD FAITH, THEY HAVE A NUMBER, WE HAVE A NUMBER. IT'S A MILLION BUCKS APART, YOU SEE, IN THIS RANGE, BUT IT'S 300 MILLION, ESSENTIALLY.

NOW, IF WE DO THE MATH OF HOW MUCH WAS 26 MILLION TO MY CLIENT DIVIDED BY THE 300 MILLION, WHAT PERCENTAGE DID RANBAXY RECEIVE OF THE OVERALL PAYMENTS MADE BY CEPHALON, EVEN IF WE TAKE THEIR $26 MILLION NUMBER? WELL, THE ANSWER IS 8.6 PERCENT TO RANBAXY. THAT MEANS WHAT, 92.4 PERCENT, 93.4 PERCENT WENT TO SOMEBODY OTHER THAN RANBAXY.

IN THIS CONTEXT, WHEN 93 PERCENT OF THE MONEY PAID BY CEPHALON WENT TO TEVA, MYLAN AND BARR AND NOT TO RANBAXY IN THE CONTEXT OF THE PHARMACEUTICAL INDUSTRY, THESE BIG DEALS, IS THAT A LARGE PAYMENT? I'LL TELL YOU THE EVIDENCE IS GOING TO SHOW YOU JUST THAT AND IT IS NOT LARGE.

NOW, THE SECOND VIEW I WANTED TO LOOK AT LARGE -- UNDER PROMISE ONE, I'M GOING TO GET THIS ALL POLISHED UP AFTER A WHILE, DIFFERENT SUBSETS TO EACH

PROMISE -- IS I WANT YOU TO LOOK AT THIS FROM THE VIEW OF THE PROFITS.

NOW, AS COUNSEL SAID, WE DID SOME WORK, WHETHER THEY THINK IT WAS GOOD WORK OR BAD WORK OR NECESSARY WORK IS WHAT WE ARE BATTLING ABOUT HERE. BUT WE DEFINITELY SUPPLIED TEN TONS, TEN TONS OF MODAFINIL API TO CEPHALON. WE DID LICENSE TWO PATENT APPLICATIONS WHICH WE HAD TO DO THE WORK TO TURN INTO PATENTS TO GET THE MONEY. AND ALL IN, ALL PAYMENTS TO RANBAXY, THE EVIDENCE IS GOING TO SHOW RANBAXY MADE A PROFIT ON THIS DEAL -- THESE DEALS OF $17 MILLION. THAT IS WHAT THE EVIDENCE IS GOING TO SHOW.

IF YOU DO THE SAME MATH, AND I'M NOT GOING TO GO THROUGH IT AND WRITE IT OUT AGAIN, THAT IS ZERO PERCENT STATISTICALLY OF THE WORLDWIDE PHARMACEUTICAL INDUSTRY. THAT IS ONE-THIRD OF 1 PERCENT OF CEPHALON'S 5.7 BILLION IN SALES. REMEMBER THAT NUMBER? SO THE AMOUNT OF PROFITS WE RECEIVED IS A THIRD OF 1 PERCENT OF THE PROFITS CEPHALON -- EXCUSE ME -- THE SALES CEPHALON WAS HAVING OF PROVIGIL. SO WHAT THEIR THEORY IS, IS THAT FOR ONE-THIRD OF 1 PERCENT, THAT IS A LARGE PAYMENT TO KEEP MY CLIENT, A GENERIC COMPANY, RANBAXY, AWAY FROM THEIR $5.7 BILLION FRANCHISE. FIRST OF ALL, THAT IS NOT LARGE. AND SECONDLY, I SUGGEST THE EVIDENCE WILL SHOW IT DOES NOT MAKE ANY SENSE.

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THE NEXT POINT, VIEW THREE, VIEW THREE OF LARGE, WHAT WAS ACTUALLY COMING RANBAXY'S WAY UNDER THESE AGREEMENTS? NOW, MR. ARNOLD DID A GOOD JOB OF EXPLAINING THE AGREEMENTS TO YOU, BUT LET ME TELL YOU ACTUALLY WHAT HAPPENED THE WAY THE NUMBER BROKE DOWN. HE GAVE YOU REAL NUMBERS, IT'S JUST A LITTLE DIFFERENT.

THE IP AGREEMENT WHERE HE SAID 5 MILLION, HE IS RIGHT. BUT THERE WAS 1 MILLION GUARANTEE. THAT WAS AN UPFRONT PAYMENT TO RANBAXY. DR. BERNEMAN FROM RIGHT DOWN THE STREET IS GOING TO COME IN AND TELL YOU THAT IS DONE ALL THE TIME IN THE PHARMACEUTICAL INDUSTRY FOR INTELLECTUAL PROPERTY AGREEMENTS.

THE REMAINING 4 MILLION TO COME UP WITH MR. ARNOLD'S $5 MILLION NUMBER, RANBAXY HAD TO MEET WHAT ARE CALLED MILESTONES. THAT MEANS THEY HAD TO DO SOMETHING. YOU ARE GOING TO HEAR WHAT THEY HAD TO DO TO EARN THAT ADDITIONAL 4 MILLION. AND ONE THING THEY HAD TO DO WAS THEY HAD TO GET PATENTS ON THEIR TECHNOLOGY. THEY WORKED ALL OF THE WAY THROUGH THAT PROCESS THAT THEY DESCRIBED AS BEING A RATHER DIFFICULT PROCESS, AND THEY DIDN'T GET THAT EXTRA 4 MILLION UNTIL THEY ACTUALLY DELIVERED TO CEPHALON USEFUL IP THAT HAD GONE THROUGH THE ENTIRE REGULATORY PROCESS ON RANBAXY'S NICKEL. SO THE GUARANTEED AMOUNT FROM THE IP AGREEMENT WAS 1 MILLION.

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LET'S GO TO THIS API AGREEMENT, REMEMBER THAT ACTIVE PHARMACEUTICAL INGREDIENT. THE API AGREEMENT, WHEN RANBAXY SIGNED THAT AGREEMENT AND ENTERED INTO IT WITH CEPHALON ON DECEMBER 22ND, 2005, HERE IS HOW MUCH WAS GUARANTEED RANBAXY UNDER THE API AGREEMENT. ZERO. ABSOLUTELY ZERO. RANBAXY HAD TO GET THE API, AND THEY GOT IT FROM A COMPANY CALLED MATRIX, WHICH THEY HAD AN ONGOING RELATIONSHIP WITH. THEY DIDN'T JUST PUT IT THROUGH A SALT GRINDER OR ANYTHING LIKE THAT, THEY HAD TO QUALIFY IT. THE CONTRACT SAYS YOU HAVE TO DELIVER TO US, CEPHALON, MODAFINIL THAT MEETS OUR SPECIFICATIONS. IT'S NOT JUST SALT. IT HAS TO MEET SPECIFICATIONS FOR CEPHALON TO IN TURN MAKE A PRODUCT OUT OF IT.

SO WHAT RANBAXY DID, THEY DELIVERED 10 TONS OF AN API, AND THEY EARNED MONEY SELLING THAT API FOR THE AMOUNT, THE 440 THAT MR. ARNOLD PUT UP ON THE BOARD. NOW HE MISSPOKE AND IT WAS COMPLETELY INNOCENT. HE SAID THAT TEVA CHARGED 475. HIS OWN EXHIBIT SAID 575. AND THAT IS JUST SOMETHING I'M SURE I HAVE DONE A NUMBER OF TIMES TODAY WHERE HE JUST GOT THE NUMBER WRONG.

SO EVEN WITHIN THE CONTEXT OF THIS DEAL, YOU CAN SEE THAT THE PRICE RANBAXY CHARGED WAS LOWER THAN OTHER SETTLING DEFENDANTS, AND IT IS CERTAINLY

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WITHIN THE RANGE OF PRICES CHARGED FOR API.

IN THAT REGARD, HELSINN, YOU HEARD ABOUT HELSINN WITH THE LOW NUMBER, SELLING THE API. YOU REMEMBER THAT ONE? HELSINN ENTERED INTO A DEAL WITH CEPHALON FOR THE API THAT INVOLVED WHAT IS CALLED A TECH TRANSFER. THAT MEANS THAT CEPHALON GAVE HELSINN ITS TECHNOLOGY TO DO IT. THAT IS WHY THE PRICE IS LOWER. CEPHALON DID NOT GIVE RANBAXY ANYTHING TO PERFORM, AND THAT IS HOW YOU GET A LOWER PRICE. AND YOU ARE GOING TO HEAR EVIDENCE THAT THE HELSINN CONTRACT WAS UP RIGHT AT THE TIME -- THAT SAME TIME PERIOD AS THE SETTLEMENT OCCURRED, AND BY UP I MEAN THAT IT WAS EXPIRED.

NOW, THAT WAS PART OF THE GUARANTEED PAYMENT, 1 MILLION. AND OTHER PART OF THE GUARANTEED PAYMENT WAS THE 2 MILLION IN SAVED LITIGATION COST THAT MR. ARNOLD TALKED ABOUT. SO AT THE TIME THE SETTLEMENT OCCURRED, DECEMBER 22ND, 2005, WHICH YOU ARE GOING TO BE INSTRUCTED IN THE ONLY WAY HE CAN DO IT IS A RELEVANT TIME PERIOD AT LEAST. THAT IS THE DATE OF SETTLEMENT. THE TOTAL AMOUNT IS THAT 2 MILLION PLUS THE 1 MILLION UNDER THE IP THAT WAS GUARANTEED. WHEN RANBAXY SIGNED THAT DEAL, SIGNED THE DEALS ON DECEMBER 22ND, 2005, THEY KNEW THEY WERE GOING TO MAKE $3 MILLION. WE DO THE SAME MATH, IT GETS NOTHING BUT LOWER. ZERO PERCENT WORLDWIDE, JUST NEGLIGIBLE AS A PERCENTAGE OF THE $5.7

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BILLION FRANCHISE ON PROVIGIL.

TO ME, IF YOU LOOK AT THIS EVIDENCE AND YOU PUT IT IN THE CONTEXT OF THE PHARMACEUTICAL INDUSTRY, NOT IN THE CONTEXT OF PEOPLE LIKE YOU AND ME AND SOME OF THE PEOPLE IN THIS ROOM, IT IS NOT A LARGE PAYMENT. IT'S A LOT OF MONEY, BUT IS IT LARGE IN TERMS OF A PHARMACEUTICAL DEAL TO KEEP SOMEBODY OFF THE MARKET TO PROTECT A $5.7 BILLION FRANCHISE? I THINK THE EVIDENCE WILL SHOW THAT IT'S NOT LARGE.

NOW, ANOTHER THING THAT YOU WERE PRELIMINARILY INSTRUCTED ON, AND I THINK IT WAS INSTRUCTIONS FROM JUDGE GOLDBERG AT THE SAME TIME, HE SAID "LARGE AND UNEXPLAINED." AND HE USED THE TERM "UNJUSTIFIED." SO IN OTHER WORDS, EVEN IF THE PAYMENT IS LARGE, IF THERE ARE USES WHERE IT IS LEGITIMATE LAWFUL EXPLANATIONS FOR THE PAYMENT, IF THEY ARE LEGITIMATE LAWFUL EXPLANATIONS FOR THE PAYMENT, EVEN THE LARGE PAYMENT IS OKAY.

NOW, THE EXAMPLE HE GAVE WAS LET'S SAY YOU ARE PROVIDING THE SERVICES, REAL SERVICES. INSTEAD OF A PAYMENT OF MONEY, YOU KNOW, HERE IS A BUCKET OF MONEY, STAY OFF THE MARKET, BUT I'M GIVING YOU A BUCKET OF MONEY FOR SOMETHING IN RETURN, IN OUR CASE PROVIDING API OR PROVIDING IP. IS THAT AN EXPLANATION THAT MAKES EVEN A LARGE PAYMENT, IF YOU WERE TO THINK THIS WERE

EXHIBIT E

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

No. 12-md-02409-WGY

In Re: NEXIUM (ESOMEPRAZOLE) ANTITRUST LITIGATION

****

For Jury Trial Before:
Judge William G. Young

EXCERPT: JURY CHARGE

United States District Court
District of Massachusetts (Boston)
One Courthouse Way
Boston, Massachusetts 02210
Wednesday, December 3, 2014

****

REPORTER: RICHARD H. ROMANOW, RPR
Official Court Reporter
United States District Court
One Courthouse Way, Room 5510, Boston, MA 02210
bulldog@richromanow.com

P R O C E E D I N G S

(***EXCERPT,*** begins.)

(Jury enters, 9:45 a.m.)

THE COURT: Good morning. You know I thanked you throughout and it's really on behalf of all the litigants and the lawyers as well. Your care, your attention, your promptness, have set a very very important standard in this case.

I have one -- for those of you keeping track and to be precise, one of our exhibits here is Number 184. When I admitted the document in evidence, I had called it, for identification, "CET." Actually it's "EOY." But the document itself is in evidence as "174" and you'll have it in the jury room.

Now, the way we planned to do this, after talking with the lawyers, I think we're all agreed that I should go first and give you my instructions as to the law, then a 15-minute break, then we'll hear from defense counsel, another 15-minute break, we'll hear from plaintiffs' counsel, making their arguments, and then along about the lunch hour the case will be in your hands.

So this is the judge's charge in the case. It's my duty really -- it's your constitutional right to be accurately instructed as to the law and it's my duty

accurately to explain the law.

Let me start by reflecting on your function as jurors. All 11 of you are going to deliberate. All 11 of you are equal. We're going to ask certain questions -- as you will see, the questions are a little different than the example I gave you when we started, and I will explain why. But during the course of this instruction I will give you the jury verdict slip and we ask you some specific questions.

Now, in answering those questions you all must agree, the verdict must be the unanimous verdict of all 11 jurors deliberating together. Your verdict must be based upon evidence that you have seen and heard right here in the courtroom and on nothing else whatsoever. No bias. No prejudice. No sympathy for anyone. And I can't say it better than I did at the beginning, just that careful dispassionate sifting of the evidence so that here, in this courtroom, justice truly may be done.

Now, a couple of things to remember. It's not the party that called the most witnesses, it's what you make of those witnesses. And there are a variety of issues. Also have in mind here that while the plaintiffs, they represent classes of entities and individuals, wholesalers, retailers, end users of Nexium, there's no advantage to that and there's no disadvantage. They

stand absolutely equal and AstraZeneca and Ranbaxy stand absolutely equal at the bar of justice before this jury. So you will, in a dispassionate way focusing on the evidence, determine your unanimous view as to each of the questions that we are going to put to you.

My function is to teach you the law. It's like a law school class. And there's a variety of things you should remember about the teaching. First, mechanically you have every right to ask me a question. Don't raise your hand now and say, "Can't you do that a little better?" I understand that one or more of you are teachers and I think you can judge my teaching. But I am candidly trying to teach you the law, to build for you a mental framework, a legal framework, within which you and you alone -- I have nothing to say about it, are going to determine what the facts show, what they prove or what they fail to prove within the framework as I describe it to you.

Now, candidly this framework is a little different than I explained to you at the beginning of the trial and I will tell you why. Because in terms of the law, I've come to -- having presided over the trial, I've come to see the central issues as somewhat different. My instructions now govern. These are the instructions you must follow. They will be comprehensive and they'll

The defense has introduced evidence suggesting that the market isn't just Nexium, but the whole market for proton pump inhibitors. That inevitably Nexium, though it's a patented product, that doesn't mean the doctor has to prescribe it, it -- the real market, the actual relevant market is all proton pump inhibitors.

Now, if you were to believe that, that doesn't mean that the plaintiffs have lost and that AstraZeneca doesn't have market power. I've defined to you what "market power" is, but I will tell you it makes it less likely. All right?

Now, the witnesses who may be of assistance on this aspect are an opinion witness, Meredith Rosenthal, Jennifer King, Matthew Diggons, Gary Rowles, Joseph Todisco, Matthew Pike, Richard Fante, Linda Palczuk.

So far we haven't gotten to any violation of the -- any even alleged violation of the antitrust laws. It's not a violation of the antitrust laws -- it's not a violation of the antitrust laws that AstraZeneca have market power from its patent monopoly and likewise it's not a violation -- what the antitrust laws restrain, what they prohibit is contracts, combinations, and conspiracies that unreasonably restrain trade. Here the plaintiffs' theory is that the contract, or contracts -- it's up to you what the deal was, that AstraZeneca made

with Ranbaxy to settle its patent litigation with Ranbaxy, was a violation of the antitrust laws.

Now, we start out with the proposition that the law favors settlements. Settlements are not only appropriate, most cases settle, judges encourage settlement, settling saves you money, the money that you're spending for your attorneys and the like. The law favors settlements. Even so, patent settlements can violate the antitrust laws. And the flag -- just to have monopoly power doesn't violate the antitrust laws. Settling patent cases doesn't violate the antitrust laws. Settling patent cases with a date of entry sometime in the future doesn't violate the antitrust laws. And because these matters are so complex -- and now we come right to Question 2, the law requires that in order to give the matter scrutiny -- in order to give the matter scrutiny to concern about whether there has been a violation of the antitrust laws, the plaintiff has to prove that AstraZeneca, when it settled with Ranbaxy, made to Ranbaxy a large and unjustified payment. And I need to define those things.

And, first of all, what do we mean by "payment"? "Payment" doesn't have to be in money, but "payment" has to be in value. There has to be -- not only that they negotiated a date when Ranbaxy could have a license and

see if it could bring its version to market, but in addition to that AstraZeneca transferred value to AstraZeneca -- to Ranbaxy, excuse me. I misspoke. And the law -- and the plaintiffs have to prove that there was such a large and unjustified payment. So the payment need not be in money.

An "unjustified payment" is one that does not reflect traditional settlement considerations such as but not limited to avoided litigation costs, fair value for services, and a reasonable compromise of litigation.

So let's come to the factual disputes here. What was actually the deal between AstraZeneca and Ranbaxy? Was the deal just the settlement agreement or was the deal the settlement agreement plus various side agreements? You figure out what it was. Then when you figure that out, you look to see that as a result of that deal was value transferred to Ranbaxy? Still no red flag up. But was the value transferred to Ranbaxy, was that large? Well, it's got to be at least more than the, um, money that they saved by not paying these lawyers -- not our lawyers, but the lawyers who were in on the patent case, and that costs money, substantial money. So the value has to be at least more than that.

Whether a payment is "large" depends upon the specific circumstances of a particular case. As I said,

it's got to be at least more than AstraZeneca's reasonably estimated save-litigation costs. Likewise if the side deals were for fair value, even if they were part of it, if that's what in the market you would have to buy to get these services, then that isn't an unjustified payment, they're just agreeing to buy things, one from the other. The plaintiffs have to prove a large and unjustified payment.

Now, "unjustified" means this, and this -- and now we get to the alleged violation. If you're taking your profits from your lawful monopoly and you're using those profits to buy off a generic to induce them to agree to a later entry date than they would have agreed if they weren't getting part of the income stream, the profits from the patent monopoly, that's an abuse of the patent monopoly, and that can be a violation of the antitrust laws. That's what the plaintiffs allege. That's what they have to prove in this case.

So the fact -- if you answer -- first of all, back to Question 1. If you answer "no" to Question 1, there can't be any violation of the antitrust laws because they don't have market power, AstraZeneca. The case is over. Question 2, is there a red flag here, does this require increased scrutiny for a possible violation of the antitrust laws? Well, the plaintiffs, have they

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

WARNER CHILCOTT COMPANY, INC. Plaintiff, v. WATSON PHARMACEUTICALS, INC. and WATSON LABORATORIES, INC. Defendants.	:	DOCUMENT ELECTRONICALLY FILED Civil Action No. 2:06-CV-3491 (HAA(ES)) **STIPULATION OF DISMISSAL WITHOUT PREJUDICE**

Pursuant to Rules 41(a)(1) and 41(c) of the Federal Rules of Civil Procedure, the Plaintiff and Defendants, by their undersigned attorneys, hereby stipulate and agree that the above captioned action, including all claims, counterclaims and affirmative defenses, is dismissed without prejudice.

Each party will bear its own costs, disbursements and attorneys' fees.

Dated: January 15, 2009
Newark, New Jersey

Respectfully submitted,

s/ Kevin J. McKenna
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Attorneys for Defendants Watson Pharmaceuticals, Inc. and Watson Laboratories, Inc.

EXHIBIT G

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January 16, 2009

BY HAND DELIVERY

Director of Operations and Civil Enforcement
Antitrust Division, Department of Justice
950 Pennsylvania Ave., N.W.
Room 3335
Washington, D.C. 20530

Re: Filing Under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003

Dear Sir or Madam:

Pursuant to Section 1112(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (the "MMA"), enclosed on behalf of Watson Pharmaceuticals, Inc. are two (2) copies of each of the following agreements:

- a Settlement and License Agreement entered into by Watson Pharmaceuticals, Inc., Watson Laboratories, Inc., and Warner Chilcott Company, Inc. in connection with a civil action pending in the United States District Court for the District of New Jersey, captioned *Warner Chilcott Company, Inc. v. Watson Pharmaceuticals, Inc. and Watson Laboratories, Inc.*, 2:06-CV-03491 and

- a Settlement and License Agreement entered into by Watson Pharmaceuticals, Inc., Watson Laboratories, Inc., and Warner Chilcott Company, Inc. in connection with a civil action pending in the United States District Court for the District of New Jersey, captioned *Warner Chilcott Company, Inc. v. Watson Pharmaceuticals, Inc. and Watson Laboratories, Inc.*, 2:07-CV-4697.

Also enclosed are two (2) copies of each of the following agreements:

- a Supply Agreement entered into by Watson Pharma, Inc. and Warner Chilcott Company, Inc.;

- a Patent License Agreement entered into by Watson Pharma, Inc. and Warner Chilcott Company, Inc.;

January 16, 2009

- a Finished Product Supply Agreement entered into by Watson Laboratories, Inc. and Warner Chilcott Company, Inc.; and

- a Co-Promotion Agreement entered into by Watson Pharma, Inc. and Galen (Chemicals) Limited.

Watson Pharmaceuticals, Inc. takes no position on whether these agreements are related to the agreements submitted pursuant to Section 1112(a) of the MMA or whether they are required to be filed.

Two (2) copies of each agreement have also been submitted to the Federal Trade Commission.

We request that the materials be kept confidential to the full extent provided by all applicable laws and regulations, including protection from disclosure pursuant to the Freedom of Information Act. The enclosed materials are entitled to confidential treatment pursuant to Section 1114 of the MMA, 16 C.F.R. §§ 2.41, 4.9 and 4.10, 15 U.S.C. § 46(f), and 5 U.S.C. §§ 552(b)(3) and (4). *See* 21 U.S.C. § 355 *note*, § 1114 ("Any information or documentary material filed with the Assistant Attorney General or the Commission pursuant to this subtitle shall be exempt from disclosure" pursuant to the Freedom of Information Act, "and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding").

Kind regards,

Julia Kupfer York

Enclosures

EXHIBIT H

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

IN RE: LOESTRIN 24 FE ANTITRUST LITIGATION *All Actions*	MDL No. 2472 Case No. 1:13-md-2472-WES-PAS

DECLARATION OF ROGER BOISSONNEAULT

I, Roger Boissonneault, hereby declare and state as follows:

1. I am the former CEO of Warner Chilcott plc. I was the CEO of Warner Chilcott from January 2005 through the end of 2013, when Warner Chilcott was acquired by Actavis plc.

2. I am currently the CEO of Millicent Pharma.

3. From approximately 1990 through 1995 I was the Vice President of Parke-Davis's Female Health Care Division.

4. In 1995, I left Parke-Davis and went to Warner Chilcott, which at the time was the generics division of Warner Lambert. Once I moved to Warner Chilcott in 1995, I no longer had any responsibilities for, or involvement with, Parke-Davis's Female Health Care Division.

5. In March 1996, Warner Lambert sold Warner Chilcott to Nale Laboratories, P.L.C. After Warner Chilcott came under new ownership, I worked for Warner Chilcott in various positions until I became CEO in 2005, a position I held until 2013.

No Role in Invention or Prosecution of the '394 Patent Underlying Loestrin 24

6. Dr. Gary Hodgen, who was a researcher at the Jones Institute for Reproductive Medicine/Eastern Virginia Medical Center, is named the inventor of U.S. Patent No. 5,552,394 (the "'394 patent"), which covers the 24-day oral contraceptive, Loestrin 24 Fe ("Loestrin 24"). I am not an inventor of the '394 patent.

7. I had no role in drafting or prosecuting the '394 patent. Although at times in the early 1990s Dr. Hodgen contacted me while I was at Parke-Davis with information concerning the invention behind the '394 patent, at that time my focus was on oral contraceptives involving multiphasic dosing regimens—particularly, the product that ultimately became Estrostep Fe and the invention that is embodied in my '070 and '098 patents. Unlike those patents concerning multiphasic oral contraceptives with graduated estrogen, the '394 patent does not change the ratio of estrogen/progestin, it was monophasic. The '394 patent is for a continuous, or monophasic, dosage form, which is fundamentally different from a multiphasic, or graduated dose. The invention in the '394 patent would be outside of my patents involving multiphasic oral contraceptives involving graduated estrogen.

8. At the time I stopped working at Parke-Davis in 1995, Parke-Davis had not agreed to license the '394 patent from the Jones Institute/EVMS. Although Dr. Hodgen urged

Parke-Davis to license the '394 patent, I never agreed to license the '394 patent, and I never signed a patent license agreement related to the '394 patent.

Warner Chilcott's 2003 Acquisition of the '394 Patent

9. In March 2003, to grow its Women's Healthcare portfolio, Warner Chilcott announced it was acquiring from Pfizer the brands comprising the hormone replacement product Femhrt, and the oral contraceptives Estrostep and Loestrin—not including Loestrin 24, which had not yet been developed. Ex. A, WC_MY0062157, News Release, *Galen Holdings PLC Proposed Acquisition of Women's Healthcare Products Portfolio from Pfizer* (Mar. 6, 2003). Incident to that transaction, and only after agreement on the purchase price and public announcement of the deal, the '394 patent was added in to the bundle of IP rights Warner Chilcott was acquiring.

10. To my knowledge, at the time Warner Chilcott acquired the '394 patent, neither Pfizer nor any of its predecessors had developed any pharmaceutical products relying on the '394 patent.

Warner Chilcott Saw the '394 Patent as Strong and Valuable

11. The '394 patent and the IP protection it provided were essential to Warner Chilcott's decision to invest in and develop the innovative new oral conceptive Loestrin 24.

12. Absent the IP protection and patent exclusivity of the '394 patent Warner Chilcott acquired in 2003, Warner Chilcott would never have invested in developing the 24-day oral contraceptive product, which ultimately came to market in 2006 as Loestrin 24. This is especially true when dealing with chronic medications like oral contraceptives.

13. As an inventor and businessman, separate and apart from any legal advice or assessment (which is not discussed here and upon which I do not rely for purposes of any of the testimony provided here), I believed that Warner Chilcott had several reasons to have confidence in the strength and protections of the '394 patent it acquired in 2003. Three in particular are worth mentioning here.

14. First, based on my experience working on oral contraceptives, and as the holder of ten patents in that area, the 24-day dosing for Loestrin 24 was novel and unprecedented. After Loestrin 24 was released, manufacturers of new oral contraceptives moved away from 21-day regimens to 24-day and other longer term regimens. I am not aware of any branded 21-day oral contraceptive that was developed and marketed after Loestrin 24 came on the market.

15. Second, in 2004 [redacted] recognized the strength of the '394 patent by seeking a license for the patent. Warner Chilcott entered into a license with [redacted] whereby [redacted] I viewed [redacted] as very capable of bringing patent litigation, so [redacted] desire to obtain a license under the '394 patent [redacted] rather than litigate, was informative.

16. Third, in 2006 Warner Chilcott entered into another license under the '394 patent with another major producer of oral contraceptives—Bayer. At that time Bayer was one of the largest manufacturers of oral contraceptives, and Warner Chilcott viewed Bayer's Yaz and Yasmin products as strong branded competition. In March 2006, Warner Chilcott had sued

Bayer for patent infringement of the '394 patent by Bayer's 24-day Yaz product. Just months later, in November 2006, Bayer agreed to enter into a license agreement with Warner Chilcott. As consideration for the license, Bayer agreed, among other things, to pay [redacted] and to pay royalties on the net sales of Bayer's Yaz product [redacted] My understanding is that those royalties on the net sales of Yaz through 2013 were on the order of [redacted] making the Bayer license a roughly [redacted] license for the '394 patent from a key competitor in the OC space that had the resources to litigate.

17. On behalf of Warner Chilcott, I stated publicly on numerous occasions while we were selling Loestrin 24 that Warner Chilcott believed that Loestrin 24 enjoyed strong IP protection with the '394 patent. For instance, in our earnings call to investors for Q3 2006, I announced the settlement and license allowing Bayer to market and sell Yaz under the '394 patent in exchange for payments to Warner Chilcott discussed above, stating: "This is a great outcome for Warner Chilcott. We believe it speaks to the strength of our intellectual property protecting our Loestrin 24 franchise."

2009 Watson Patent Settlement Agreements and Contemporaneous Generess and Femring Agreements

18. On January 9, 2009, Warner Chilcott settled two patent litigations with Watson. One patent litigation related to Loestrin 24 and the other related to another drug, Femcon Fe.

Loestrin 24 Patent Settlement

19. Under the terms of the patent litigation settlement related to Loestrin 24, the parties agreed to a date certain for early entry of Watson's generic version of Loestrin 24. Watson was permitted to enter with its generic version of Loestrin 24 in January 2014—six months prior to the expiration of the '394 patent. A date certain was beneficial for both parties because it saved both sides millions of dollars in litigation costs and allowed both sides to plan for the future with greater confidence. A date certain for generic entry also enabled Watson to plan for a strong entry by building inventory, promoting the generic launch to customers, and planning a timeline for stocking perishable product.

20. Watson's early entry date prior to patent expiry incorporated in an exclusive license, meaning that for the first 6 months after Watson's generic launch, Warner Chilcott would neither enter with its own authorized generic product, nor license another generic to enter. For Warner Chilcott, agreeing not to launch its own authorized generic of Loestrin 24 was of minor consequence to us: Warner Chilcott rarely launched authorized generics. We considered it a distraction from our core business, and something that unnecessarily complicated our messaging to our investors. Instead, as we made clear to investors, our business model and strategy was to focus on innovations in order to launch new, improved products prior to patent expiry. Therefore, by agreeing that Watson could have exclusive entry for six months, similar to what Watson would normally be entitled to as the ANDA first filer, we were not giving up anything that Warner Chilcott's management considered valuable. Warner Chilcott would not have agreed to any entry date earlier than the one in the Watson-Warner Chilcott settlement.

21. Absent a settlement, if Warner Chilcott had gotten approval for Minastrin by March of 2009, as we originally anticipated, and Watson had not launched their ANDA product at risk by then, Warner Chilcott would not have proceeded with an authorized generic version of Loestrin 24 [redacted] Instead, I expect that Warner Chilcott would have introduced its new

branded Minastrin product upon approval [redacted] Watson did not get approval for their ANDA product until September 2009, so even if Warner Chilcott had not settled with Watson, [redacted] Warner Chilcott would have focused on Minastrin and Warner Chilcott's other strong-selling oral contraceptive LoLoestrin. [redacted] At the time, Warner Chilcott thought an at-risk launch by Watson was very unlikely.

22. I also note that the exclusivity provision with Watson did not figure into the negotiations – the parties had agreed on the January 2014 6-month early-entry date for Watson by December 4, 2008, and the subject of an exclusivity aspect never arose. Watson included the provision in a draft sent *after* we had reached agreement on the key terms. I understood the draft was meant to "paper" the key terms to which we had agreed, and otherwise to include customary "boilerplate" provisions typically found in settlement of this kind.

23. Watson never suggested that including the exclusivity term was a deal breaker for Watson, and they never once hinted that without that provision Watson would have demanded an earlier entry date. At that time (2008) I understood exclusivity provisions like this were fairly common in pharmaceutical patent settlements. Frankly, I didn't think much of the exclusivity provision since foregoing the opportunity to launch an AG of Loestrin 24 was of such little consequence to Warner Chilcott.

Generess and Femring Agreements

24. Separately, at the same time on January 9, 2009, as a result of parallel business discussions that explored synergies between Warner Chilcott and Watson, Warner Chilcott entered into two separate business agreements with Watson. First, Warner Chilcott entered into license & supply agreements for a new chewable oral contraceptive then in development, which later came to be known as Generess. Second, Warner Chilcott and Watson entered into a co-promotion agreement under which Watson would co-promote Femring, an older hormone replacement therapy drug that Warner Chilcott was not actively promoting at the time.

25. Warner Chilcott negotiated each of these business agreements on an arms-length basis. As discussed in detail below, we thought that each provided a unique opportunity that was in the best interest of Warner Chilcott and that each business agreement stood on its own merits. We would have entered into the Generess agreements or Femring agreement independently of the Loestrin 24 settlement. Similarly, had we not entered into these business agreements, Warner Chilcott would still have entered into the Loestrin 24 settlement agreement with Watson.

26. In my experience, it was not unusual to discuss various business opportunities with a single company at one time. While at the negotiating table with Watson, it was efficient to explore other business arrangements that may be worthwhile for both companies.

27. **Generess License & Supply Agreements.** Under the 2009 Generess agreements, Watson paid Warner Chilcott a 15% royalty for the right to market Generess once it was approved. The royalty rate of 15% was customary and in line with deals that Warner Chilcott had done in the past. In fact, the 15% royalty tracked the terms of the [redacted]

28. The Generess License & Supply Agreements made business sense for both parties because Warner Chilcott did not have plans to market Generess. In 2008/2009 Warner Chilcott did not have room in its marketing line-up to market the product because we were focused on our ultra-low dose oral contraceptive product that we expected to get approved by the end of 2009 (which we ultimately brought to market as Lo Loestrin Fe). Enabling Watson to market Generess allowed Warner Chilcott to gain revenue on a drug that otherwise would not have been marketed and otherwise did not have value to Warner Chilcott.

29. Watson was one of the only options for Warner Chilcott to partner with on the Generess deals. There were very few pharmaceutical companies in the branded women's healthcare space by late 2008. Warner Chilcott did not want to license or supply a new product to our direct brand competitors Bayer (which was selling Yaz), and Janssen (which was selling Ortho Tri-Cyclen Lo). Other companies with a history in the women's health space, such as Organon, had been acquired by late 2008 and their women's health businesses sold off. This left only a very few companies in women's health space—primarily generic companies, including Watson and Barr/Teva—as options for a partnership.

30. Based on the negotiations with Paul Bisaro, the CEO of Watson, I understood that in-licensing Generess was of interest and beneficial for Watson because at the time Watson, although experienced in women's healthcare and generic products, was focused on building its branded portfolio, as well as increasing Watson's presence in the OB/GYN space. Because Watson expressed this interest, it made sense to enter the Generess deals with them, especially given the lack of other options. I thought that Watson with Paul Bisaro at the helm would put in the effort necessary to make Generess a success, which in turn would create royalties for Warner Chilcott.

31. Doctors and patients benefitted from Warner Chilcott's licensing Generess to Watson because the commercial agreement resulted in another oral contraceptive—a chewable oral contraceptive—being developed, launched, and marketed with the accompanying education for doctors by Watson's representatives. Watson's licensing of Generess expanded the oral contraceptive choices available to patients and doctors.

32. **Femring Co-Promotion Agreement.** Under the 2009 Femring co-promotion agreement, Watson was obligated to perform a certain number of details for an annual fee and royalty for a certain baseline above net sales for a period of three years. As of 2009, Warner Chilcott had not been promoting Femring for several years due to resource constraints, but we had plans at the time to develop and eventually launch an improved version of the Femring product. In the interim, the co-promotion agreement with Watson enabled Watson to invest in promoting the Femring product to grow the brand and raise its profile with doctors and patients—which had strategic and financial value for Warner Chilcott. From Watson's perspective, the agreement provided Watson another opportunity to promote drugs to OB/GYNs and build the connections it was trying to grow in the women's healthcare space.

33. Warner Chilcott had similar reasons for entering a partnership with Watson on Femring as it did on Generess, as discussed above. Namely, Warner Chilcott did not believe there were many viable options and thought Watson would put in the necessary effort to make the product successful given Watson's desire to expand their Women's Health presence. And, once we were talking with Watson about licensing Generess once it had approval, it was natural to explore what other products could be licensed in the meantime.

34. In 2008/2009 and after, Warner Chilcott thought that Femring would be useful as a sort of annuity for Warner Chilcott. We thought that we could later develop new indications or uses for the Femring technology.

35. Recently, as publicly announced, my current company, Millicent Pharma, purchased Femring in May 2018 from Allergan. [redacted].

Advantages of Chewable Oral Contraceptives and Minastrin 24 Fe

36. Experience has shown over the last 30+ years that chewable formulations, such as chewable Minastrin 24 Fe, have advantages over non-chewable formulations, and are preferred by some patients and doctors. In my time at Parke-Davis and Warner Chilcott, I worked on various chewable products, including Cholybar, a drug used to treat high cholesterol and itching caused by biliary obstruction, and Natachew, the first chewable prenatal vitamin. Natachew was designed to enhance patient compliance. Warner Chilcott developed Natachew in-house and launched it in November 1999 and sold it until 2009, when Natachew and its related patents were acquired by Mission Pharmacal Company.

37. Because chewable Ovcon 35 was sold alongside Ovcon, the chewable version was renamed Femcon to avoid patient confusion. Femcon enjoyed sales of over $40 million a year for several years, notwithstanding that Ovcon was still available, and despite the availability of generic versions of Ovcon. Despite this competition from branded and generic (non-chewable) oral contraceptives, Femcon sold over $40 million in each of 2008, 2009, and 2010.

38. Even before Warner Chilcott developed Minastrin, the FDA recognized the benefits of a chewable oral contraceptive. When the FDA approved chewable Ovcon 35 in 2003, the FDA issued a press release informing patients that there was another oral contraceptive option available—the first chewable oral contraceptive. Ex. B, FDA Talk Paper, *FDA Approves Ovcon 35 as the First Chewable Oral Contraceptive Tablet for Women* (Nov. 14, 2003). This was the first, and only, time in my career at Warner Chilcott that the FDA had issued a press release announcing the approval of one of Warner Chilcott's drugs. The FDA's announcement underscored that the FDA saw how unique and important the chewable Ovcon 35 oral contraceptive was for patients.

39. Our research also confirmed patient and doctor interest in chewable oral contraceptives. As part of its development of chewable Ovcon 35 and Minastrin, Warner Chilcott commissioned market research of doctors and patients about the benefits of chewable oral contraceptives. Among other things, at least as early as 2005, Warner Chilcott regularly commissioned surveys of physicians at meetings of the American College of Obstetricians & Gynecologists to gain insight into a new chewable hormonal contraceptive. This survey confirmed that 55% of doctors thought that convenience and compliance were advantages of a chewable birth control pill. Ex. C, WCL2383265, *Summary of Survey Results Physicians' Reactions to a Chewable Contraceptive* (May 2005), at slide 13.

40. From my personal experience I knew that chewable oral contraceptives would provide a benefit to patients. For instance, in connection with my experiences in the field at Warner Chilcott, I have been in an Ob/Gyn office when the nurses were discussing which oral contraceptive was the smallest so that they could prescribe it for women who could not swallow pills. I realized that it did not matter to them which pill they were prescribing (i.e., 30mcg,

20mcg, 21-day), so long as it was the smallest, given the patient's swallowing issues. Providing a chewable option would allow patients and prescribers to make a more informed choice not solely based on the size of the pill.

41. After the success with patients and doctors for chewable Femcon, Warner Chilcott sought to develop two new chewable oral contraceptives, which became Minastrin 24 Fe and Generess. As with Femcon, Warner Chilcott sought to provide patients the benefit of additional chewable options, in order to enhance patient compliance and to provide alternatives for women who have trouble swallowing pills. Both chewable formulations—Minastrin and Generess—had good sales as patients and doctors switched to them or started new patients on them, despite the broad range of OC products on the market.

42. Warner Chilcott launched Minastrin in July of 2013, and Minastrin garnered sales of $55 million in 2013. Similarly, Watson successfully launched Generess and, I understand, had commercial success. Generess was a wholly new chewable product (not a successor to a non-chewable product), underscoring the appeal of the chewable feature to patients and doctors who chose to switch to Generess, rather than taking older, established oral contraceptives.

43. All of the above I could have testified to, and would have testified to, in the deposition that was scheduled for June 19, 2018, but was cancelled by Plaintiffs.

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed in Branford, Connecticut on February 4, 2019.

2/4/19

Roger Boissonneault

EXHIBIT I

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

IN RE LOESTRIN 24 FE ANTITRUST LITIGATION	:	13-MD-02472(WES)
	:	United States Courthouse
	:	Providence, Rhode Island
	:	
	:	Thursday, September 12, 2019
	:	10:00 a.m.
	:	

TRANSCRIPT OF CIVIL CAUSE FOR MOTION HEARING
BEFORE THE HONORABLE WILLIAM E. SMITH
UNITED STATES CHIEF DISTRICT COURT JUDGE

A P P E A R A N C E S:

FOR DIRECT PURCHASERS:	THOMAS M. SOBOL, ESQ. KRISTEN A. JOHNSON, ESQ. Hagens Berman Sobol Shapiro 55 Cambridge Parkway, Suite 301 Cambridge, MA 02142
FOR WALGREEN CO. PLAINTIFF:	ANNA T. NEILL, ESQ. Kenny Nachwalter, P.A. Four Seasons Tower 1441 Brickell Avenue, Suite 1100 Miami, FL 33131
FOR THE CVS and RITE-AID PLAINTIFFS:	BARRY L. REFSIN, ESQ. Hangley Aronchick One Logan Square, 27th Floor Philadelphia, PA 19103
FOR WARNER CHILCOTT and WATSON DEFENDANTS:	NICOLE J. BENJAMIN, ESQ. Adler, Pollock & Sheehan, PC One Citizens Plaza, 8th Floor Providence, RI 02903
	ROBERT A. MILNE, ESQ. ALISON HANSTEAD, ESQ. PETER J. CARNEY, ESQ. BRYAN GANT, ESQ. MICHAEL J. GALLAGHER, ESQ. J. MARK GIDLEY, ESQ. White & Case LLP 1221 Ave. of the Americas, 49th Floor New York, NY 10020

Court Reporter: Lisa Schwam, CSR, CRR, RPR, RMR

(In open court)

THE COURT: All right. Good morning, everyone. So this is a big day in our court because last night our new judge was confirmed. And you'll be happy or not happy to know I'm not going to transfer this case. Maybe I should, but I won't.

All right. So do you have a plan for today?

MR. MILNE: Well, your Honor, Robert Milne for Warner Chilcott. First of all, we know your Honor raised the question, a specific question, on *Walker Process* issues. We're happy to address that kind of upfront to get it out of the way.

THE COURT: Good.

MR. MILNE: And there's been some discussion among the parties, as we understand it, in terms of how to deal with the *Daubert* arguments. And really I don't think we -- we understand that the plaintiffs wish to treat at least one of their motions as a motion in limine and that's one relating to Meyer, Schilling and Robbins. And we're happy with -- it's their motion so we're happy if they wish to do that. But I think beyond that, the schedule that's in the roadmap document is what we would plan to sort of work through.

And just in general, it looks like we're trying to structure it so that the patent issues kind of get

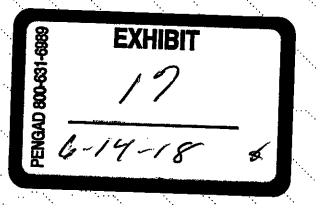
consistent with the stats we heard from Mr. Carney earlier today. And I think if we looked at the other cases, they would also fall in line.

THE COURT: But you made the point, and Ms. Johnson emphasized this point, that every case has to be evaluated on its own merits and the statistics only take you so far in this type of an assessment. And, you know, you can think of any number of analogies in the law where, let's say, the breach of contract or tort or whatever is just so obvious that no one could reasonably dispute the liability of one side to the other.

And if someone who has the skills and the expertise makes that assessment, then it seems like the data is really grist for cross-examination as opposed to a reason to exclude the witness. And so when you get right down to it, I mean, why doesn't it really just become a -- you know, and it's what's good for the goose is good for the gander, you're going to argue about Judge Ward in a bit, but it's going to be a battle of the experts.

Both sides are going to put up their experts to say what the chances of success are, and you're going to be able to cross-examine those experts. I'm not going to let anybody testify as to what was in

EXHIBIT J



SETTLEMENT AND LICENSE AGREEMENT

This is an agreement (hereinafter referred to as "Agreement") dated as of this 9th day of January, 2009, by and among Warner Chilcott Company, Inc. ("WCCI"), a corporation organized and existing under the laws of Puerto Rico, and Watson Pharmaceuticals, Inc. ("WPI"), a corporation organized and existing under the laws of the State of Nevada, and Watson Laboratories, Inc. ("WLI", and, together with WPI, "Watson"), a corporation organized and existing under the laws of the State of Nevada. WCCI and Watson are sometimes individually referred to herein as a "Party" and collectively referred to herein as "Parties."

WHEREAS, the Parties are presently involved in the Lawsuit, in which it has been asserted that Watson infringes certain claims of U.S. Patent No. 5,552,394 (the "Patent" and the asserted claims therein, the "Patent Claims"), with respect to certain of which Patent Claims Watson has asserted affirmative defenses and counterclaims alleging invalidity, unenforceability and/or non-infringement; and

WHEREAS, the Parties wish to fully settle the Lawsuit concerning the Patent Claims with respect to the Watson Product upon the terms and subject to the conditions set forth below.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The following terms, when used with initial capital letters shall have the meaning set forth below.

a. "Affiliate" shall mean with respect to a Party, any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Party at any time during the period for which the determination of affiliation is being made. For the purposes of this definition, "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management, policies or affairs of a person, whether through ownership of voting securities or general partnership or managing member interests, by contract or otherwise, including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such person. Without limiting the generality of the foregoing, a person shall be deemed to control any other person in which it owns, directly or indirectly, a majority of the voting interests.

b. "ANDA" shall mean an Abbreviated New Drug Application as defined under 21 U.S.C. § 355(j).

c. "FDA" shall mean the United States Food and Drug Administration.

d. "Launch Date" shall mean the earliest of (i) January 22, 2014, (ii) the date of a final, nonappealable judicial order that the Patent is invalid, unenforceable or not infringed by a Third Party's generic version of the WCCI Product and (iii) the date on which Watson is licensed under Paragraph 7 to launch.

e. "Lawsuit" shall mean *Warner Chilcott Company, Inc. v. Watson Pharmaceuticals, Inc. and Watson Laboratories, Inc.*, 2:06-CV-03491, U.S. District Court for the District of New Jersey.

f. "Losses" shall mean all pending and potential claims, demands, all manner of actions, causes of action, suits, debts, liabilities, losses, damages, attorneys' fees, costs, expenses, judgments, settlements, interest, punitive damages and other damages or costs of whatever nature, whether known or unknown, pending or future, certain or contingent.

g. "Person" means any individual, corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, limited liability partnership, unincorporated organization, government (or any agency or political subdivision thereof) or other legal Person or organization.

h. "Proceeding" shall mean any action, audit, litigation, investigation, suit or other proceeding.

i. "Related Parties" shall mean a Party's Affiliates, directors, officers, employees, agents, representatives, heirs, assigns, predecessors, successors or other related parties.

j. "Third Party" shall mean any Person other than a Party or its Affiliates.

k. "Watson Product" shall mean the oral contraceptive drug that is described in, and is the subject of, ANDA No. 78-267 or any other ANDA filed by Watson or its Affiliates for which the WCCI Product is the reference product.

l. "WCCI NDA" shall mean New Drug Application (an "NDA") No. 021871.

m. "WCCI Product" shall mean the oral contraceptive drug that is described in, and is the subject of the WCCI NDA, which is currently marketed by WCCI under the trademark Loestrin® 24 Fe.

2. Upon the terms and subject to the conditions of this Agreement, in consideration of the mutual execution of this Agreement and the mutual agreement to be legally bound by the terms hereof, each Party, on behalf of itself and its Related Parties, hereby releases, acquits and forever discharges each other Party and its Related Parties from any and all Losses arising out of, derived from, predicated upon or relating to the Patent Claims, the actions asserting such Patent Claims and the Lawsuit; provided, however, nothing in this Agreement shall prevent or impair the right of any Party to bring a Proceeding in court or any other forum for a breach of this Agreement or any representation, warranty or covenant herein. Notwithstanding this release or anything herein to the contrary, nothing herein shall preclude Watson from challenging the validity, enforceability and/or infringement of the Patent in any future litigation concerning a product other than (i) the Watson Product, or (ii) any other product that, as designed, could be AB rated to the WCCI Product. The Parties agree to the entry of a dismissal without prejudice of the Lawsuit, with each side bearing its own costs and attorneys' fees. Promptly following the

execution of this Agreement, the Parties shall cause to be filed with the United States District Court for the District of New Jersey, all necessary papers, including a Stipulation of Dismissal, attached as Attachment A, required to dismiss all claims and counterclaims, motions, and petitions asserted in the Lawsuit and shall take all other necessary actions to obtain the settlement and dismissal of the Lawsuit.

3. Each Party acknowledges and agrees that:

a. It may have sustained Losses that are presently unknown and unsuspected, and that such Losses might give rise to Losses in the future. Nevertheless, each Party acknowledges and agrees that this Agreement has been negotiated and agreed upon, notwithstanding the existence of such possible Losses, all of which have been hereby released under Paragraph 2 hereof.

b. If any fact relating to this Agreement or the Lawsuit and now believed to be true is found hereafter to be other than, or different from, that which is now believed, each Party expressly assumes the risk of such difference in fact and agrees that this Agreement shall be, and will remain, effective notwithstanding any such difference in fact, subject to each Party's right to bring a Proceeding for a breach of this Agreement or any representation, warranty or covenant herein.

c. This Agreement may be pleaded as a full and complete defense to, and used as a basis for injunction against, any Proceeding that may be instituted, prosecuted or attempted in breach hereof. Should any Party institute a Proceeding to enforce any provision of this Agreement, or for Losses by reason of any alleged breach of any provision hereof, or for a declaration of such Party's rights or obligations hereunder, or for any other judicial remedy predicated upon the breach by the other Party of this Agreement or as may otherwise be permitted hereunder, the prevailing Party shall be reimbursed by the losing Party for all reasonable and necessary costs and expenses incurred thereby, including, but not limited to, reasonable attorneys' fees for the services rendered to the Party finally prevailing in any such Proceeding.

4. Watson covenants and agrees that it shall not sell the Watson Product prior to January 22, 2014 or such earlier date upon which it is licensed to sell the Watson Product pursuant to Paragraphs 5, 7 or 8 hereof. Watson agrees that to the extent that Watson or its Affiliates sells, has sold, or offers for sale any Watson Product in the United States in violation of this Paragraph 4, such breach will cause irreparable harm to WCCI. Watson hereby irrevocably and unconditionally consents to immediate entry of a temporary restraining order, preliminary injunction and permanent injunction, without the requirement to post a bond, to enforce the provisions of this Paragraph 4.

5. WCCI covenants and agrees that neither it nor its Affiliates shall market or supply, or grant a Third Party any rights (under the Patent or otherwise) to market a generic version of the WCCI Product, whether manufactured under the WCCI NDA or an ANDA, on any date prior to the date that is one hundred eighty (180) days following the Launch Date, unless WCCI agrees to establish an early launch date for Watson that is at least one hundred eighty (180) days prior to the commencement of marketing by WCCI, its Affiliates or such Third Party (an "Early Launch

Date"). Any authorization of or license to a Third Party by WCCI to market the WCCI Product in which WCCI assigns or transfers the exclusive right to market the WCCI Product shall not trigger this provision, so long as such authorization or license is subject to the terms and conditions of this Agreement. WCCI shall, to the extent reasonably practicable, provide Watson with 60 days' advance written notice of any such Third Party sale or license. For the avoidance of doubt, nothing in this Paragraph 5 shall prevent WCCI and its Affiliates from marketing or from supplying, authorizing or licensing a Third Party to market a generic version of the WCCI Product, so long as such product is not sold commercially until the day that is one hundred eighty (180) days following the Launch Date or the Early Launch Date.

6. Upon the terms and subject to the conditions of this Agreement, WCCI grants to Watson a non-exclusive, fully paid-up, worldwide, royalty-free, irrevocable license, under the Patent and all regulatory exclusivities pertaining to and covering the WCCI Product, to manufacture and offer for sale in the United States commencing prior to January 22, 2014 for sale commencing on January 22, 2014, and to sell effective January 22, 2014 and thereafter, the Watson Product, all for the terms of such Patent and regulatory exclusivities. WCCI shall use its commercially reasonable efforts to cooperate with Watson, at Watson's sole cost and expense, as may be required to obtain FDA approval of Watson's ANDA No. 78-267 effective January 22, 2014.

7. If a Third Party commercially launches a generic version of the WCCI Product without authorization from WCCI, then WCCI shall grant to Watson the license granted pursuant to Paragraph 6 hereof, effective on the same date as such Third Party launch. Further provided, in the event a Third Party commercially launches a generic version of the WCCI Product and WCCI subsequently succeeds in having such Third Party cease its sales of such product, then the license granted pursuant to this Paragraph 7 shall be suspended at such time as the Third Party product is no longer commercially available or, if such cessation of sales is pursuant to an injunction issued by a court, the date of such injunction, whichever is earlier, and the license shall be reinstated upon the subsequent occurrence, if any, of an "at risk" launch as described in the first sentence of this Paragraph 7. WCCI shall use its commercially reasonable efforts to cooperate with Watson, at Watson's sole cost and expense, as is required to obtain FDA approval of Watson's ANDA No. 78-267 under a license granted pursuant to this Paragraph 7.

8. If a Third Party obtains a final, nonappealable judicial order that the Patent is invalid, unenforceable or not infringed by a Third Party's generic version of the WCCI Product, then WCCI shall grant to Watson a non-exclusive license under the Patent so adjudicated and all regulatory exclusivities to enter the market with the Watson Product at the time of such order, and WCCI shall use its commercially reasonable efforts to cooperate with Watson, at Watson's sole cost and expense, as may be required to obtain FDA approval of Watson's ANDA No. 78-267 at or as soon as practicable after such order. For clarity, if the Patent is found in a final, nonappealable judicial order to be invalid, unenforceable or not infringed by a Third Party's generic version of the WCCI Product, Watson shall be entitled to exercise all rights with respect to the Patent to the extent any Third Party would legally be able to do so.

9. All rights not expressly granted to Watson under Paragraphs 6, 7 and 8 are expressly reserved to WCCI. Watson expressly disclaims any right to use the WCCI Product, Patent or Patent Claims except in accordance with the express grants hereunder, and WCCI has no

obligation to make available any intellectual property rights or to take any other actions other than as expressly set forth herein; provided, however, that WCCI shall not use or sue or bring a Proceeding seeking to enforce any of the Patent or Patent Claims or any other intellectual property rights pertaining to the WCCI Product to prevent or restrict Watson or its Affiliates, licensees, sublicensees or subcontractors from undertaking the licensed activities permitted under this Agreement, so long as all such activities comply in all material respects with the terms contained herein.

10. Notwithstanding anything to the contrary contained in this Agreement, Watson may grant sublicenses in order to exercise its rights and carry out its obligations under this Agreement: (a) to its Affiliates, without the prior written consent of WCCI; and (b) to third parties, with WCCI's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Watson acknowledges that the grant of a sublicense or use of a subcontractor shall not relieve Watson from, and Watson shall remain responsible for, all of its obligations under this Agreement. Watson shall be responsible for the compliance of its Affiliates, sublicensees and subcontractors with this Agreement.

11. Each Party hereto represents and warrants to the other Party that, as of the date hereof:

a. this Agreement is a legal, valid and binding obligation of the warranting party, enforceable against such party in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or by general principles of equity;

b. the warranting party is not subject to any judgment, order, injunction, decree or award of any court, administrative agency or governmental body that would or might interfere with its performance of any of its material obligations hereunder; and

c. the warranting party has full power, right and authority to enter into and perform its obligations under this Agreement in accordance with its terms.

12. WCCI represents and warrants that, as of the date hereof:

a. it presently owns, licenses or has the legal rights to use the Patent and the WCCI NDA, and to grant the licenses hereunder, and that it has the right to settle the Lawsuit; and

b. it has no pending patent applications claiming the WCCI Product.

13. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF APPLICABLE LAW.

14. Neither Party hereto may assign any of its rights or obligations under this Agreement without the prior written consent of the other Party, except to an Affiliate, or in connection with a merger, reorganization, change of control or sale of all or substantially all of the applicable business. Notwithstanding the foregoing, Watson may assign this Agreement to any successor-

in-interest to the Watson Product, whether by merger, asset sale, operation of law or otherwise. Any purported assignment in violation of the foregoing shall be null and void *ab initio* and of no force or effect. No assignment of this Agreement will relieve the assigning Party from any of its obligations hereunder. In the event of a permitted assignment, this Agreement shall be binding upon and inure solely to the benefit of the Parties and their respective successors and permitted assigns.

15. For avoidance of doubt, all rights and licenses granted under or pursuant to any paragraph of this Agreement are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code (the "Bankruptcy Code"), licenses of "intellectual property" as defined under the Bankruptcy Code. The Parties shall retain and may fully exercise all of their respective rights and elections under the Bankruptcy Code; provided, however, that should WCCI become a party to a bankruptcy proceeding and such proceeding is not dismissed within thirty (30) days then, to the extent permitted by law, this Agreement and the licenses granted by WCCI hereunder shall be adopted by any bankruptcy trustee or relevant Third Party charged with the disposition of same, and shall not be rejected by same, it being the Parties' intent that, in such event, Watson and its Affiliates and sublicensees shall be entitled to retain the rights granted to them hereunder by WCCI. Further, upon the bankruptcy of WCCI, Watson shall be entitled to a complete duplicate of (or complete access to, as appropriate) any such intellectual property, and such, if not already in its possession, shall be promptly delivered to Watson unless WCCI elects to continue, and continues, to perform all of its obligations under this Agreement.

16. From the date hereof until the date on which Watson is permitted to commence sales of the Watson Product hereunder, WCCI will use its reasonable best efforts to provide Watson with 30 days' advance notice of any proposed labeling changes with respect to the WCCI Product requested by WCCI or any specific labeling amendments or supplements with respect to the WCCI Product including, but not limited to, any changes made in response to an order or request of the FDA.

17. Each Party shall, at its own cost and expense, take all actions and do all things reasonably necessary or proper, including under applicable law, to make effective and further the intents and purposes of the transactions contemplated by this Agreement, including executing any further instruments reasonably requested by the other Party.

18. Each Party acknowledges and agrees that:

a. The Mutual Confidential Disclosure Agreement between WPI and WCCI, dated as of November 8, 2007, as amended (the "Confidentiality Agreement"), shall remain in full force and effect, the terms of which are hereby incorporated by reference, as amended and/or clarified by this Agreement and this Paragraph 18.

b. The Parties hereby acknowledge and agree that (i) WLI agrees to be bound by the terms and conditions of the Confidentiality Agreement as if it were originally a party thereto; (ii) the term of the Confidentiality Agreement is amended such that it shall not terminate until the tenth anniversary of the date of this Agreement; (iii) the terms of this Agreement and the transactions contemplated hereunder, and any information exchanged hereunder shall be deemed "Confidential Information" for purposes of the Confidentiality

Agreement and any use or disclosure thereof shall be governed by such agreement; and (iv) the legal department of each Party shall be permitted to retain one copy of the other Party's Confidential Information solely for archival purposes, notwithstanding paragraph 3 of the Confidentiality Agreement. Each Party acknowledges that any and all other information provided to it by the other Party or its representatives concerning such other Party and its Affiliates shall remain subject to the terms and conditions of the Confidentiality Agreement.

c. If either Party becomes aware or has knowledge of any unauthorized use or disclosure of the other Party's Confidential Information, it shall promptly notify the disclosing Party of such unauthorized use or disclosure.

d. Except (i) as set forth in any press release mutually agreed by the Parties, (ii) as consistent with the press release issued pursuant to this Paragraph 18(d) and (iii) as may be required to be made by a Party to the extent that such disclosure is legally required including, without limitation, all applicable securities and regulatory laws and regulations, neither Party shall make or allow the publication of any press release or public announcement with respect to this Agreement or any of the transactions contemplated hereby, without the prior written approval of the other Party, which shall not unreasonably be withheld, conditioned or delayed.

19. Each Party shall, at its own cost and expense, take all actions and do all things reasonably necessary or proper, including under applicable law, to make effective and further the intents and purposes of the transactions contemplated by this Agreement, including executing any further instruments reasonably requested by the other Party.

20. This Agreement (including all attachments hereto) constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all prior agreements or understandings, oral or written, with respect to such matters, except for the Confidentiality Agreement, which shall remain in full force and effect as modified hereunder, the terms of which are incorporated by reference. The Parties may amend or modify the provisions of this Agreement, including this provision, only by mutual agreement in writing.

21. The Parties agree and acknowledge that this Agreement is the product of all of the Parties and shall not be construed against any of the Parties.

22. All notices or other communications hereunder shall be deemed to have been duly given and made if in writing and if served by personal delivery upon a Party, if delivered by registered or certified mail (return receipt requested) or by a reputable overnight express courier service (charges prepaid), or if sent by facsimile to the person at the address set forth below, or such other address as may be designated in writing hereafter, in the same manner, by such person as follows:

In the case of WCCI:

Warner Chilcott Company, Inc.
Union Street Km. 1.1
Fajardo
Puerto Rico
Facsimile: 787 863 5355
Attn: Senior Director, Business Management

with a copy to:

Warner Chilcott (US), LLC
100 Enterprise Drive
Rockaway, NJ 07866
Facsimile: (973) 442-3316
Attn: General Counsel

In the case of Watson:

Watson Pharmaceuticals, Inc.
311 Bonnie Circle
Corona, California 92880
Facsimile: (951) 493-5821
Attn: General Counsel

Such notices will be deemed to have been given on the date delivered in the case of hand delivery or delivery by overnight courier, on the date set forth in the confirmation sheet in the case of facsimile delivery, and on the fifth (5^{th}) business day following the date of post mark in the case of delivery by mail.

23. This Agreement and any dispute arising out of or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New York. With respect to any Proceeding relating to this Agreement, each Party irrevocably agrees and consents to the exclusive jurisdiction of the federal and state courts in New York and waives any objection to venue of any such Proceeding brought in any such court. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN RESPECT TO ANY SUCH PROCEEDING.

24. WCCI shall defend, indemnify and hold harmless each of Watson and its Affiliates and their respective directors, officers and employees (each an "Indemnified Party") from and against any reasonable fees, costs or expenses (including expert witnesses and attorneys) incurred by an Indemnified Party in connection with any action, investigation, subpoena, lawsuit or proceeding, whether formal or informal, civil or criminal, brought by a governmental entity or Third Party against an Indemnified Party (each a "Proceeding") arising from the Parties' entering into of this Agreement (each or collectively "WCCI Liability"). An Indemnified Party claiming a right to indemnification under this Paragraph 24 shall notify WCCI of any Proceeding within five (5) business days after the Indemnified Party has knowledge of such Proceeding. At the

Indemnified Party's request, WCCI shall use reasonable efforts to cooperate with the Indemnified Party and its legal representatives in the investigation and defense of any Proceeding. WCCI shall remit and pay any and all WCCI Liability to the respective Indemnified Party on a quarterly calendar year basis; provided that, WCCI's obligation to reimburse Indemnified Parties for WCCI Liability shall be limited to one million dollars ($1,000,000) in each calendar year (January 1 through December 31 of each year). For the avoidance of doubt, WCCI shall never be obligated to indemnify Watson and its Affiliates and their respective directors, officers and employees for WCCI Liability in an amount greater than $1,000,000 in a given year, regardless of the amount of WCCI liability in any other year.

25. This Agreement may be executed in any number of counterparts, and execution by each of the Parties of any one of such counterparts will constitute due execution of this Agreement. Each such counterpart hereof shall be deemed to be an original instrument, and all such counterparts together shall constitute but one agreement.

26. If any provision of this Agreement is held invalid, illegal or unenforceable for any reason, the Parties shall negotiate in good faith for a substitute provision to continue the intent and purpose of such invalid provisions, and the validity, legality and enforceability of the remaining provisions shall not be in any way impaired thereby.

[Signature page follows]

This Agreement is signed as indicated below by duly authorized representatives of WCCI and Watson, respectively, effective as of the date first written above.

WARNER CHILOTT COMPANY, INC.

By: _____

Name: Max Torres

Title: Senior Director

WATSON LABORATORIES, INC.

By: _____

Name:

Title:

WATSON PHARMACEUTICALS, INC.

By: _____

Name:

Title:

This Agreement is signed as indicated below by duly authorized representatives of WCCI and Watson, respectively, effective as of the date first written above.

WARNER CHILOTT COMPANY, INC.

By:_____

Name: Max Torres

Title: Senior Director

WATSON LABORATORIES, INC.

By:_____

Name: Paul M. Bisaro

Title: President + CEO

WATSON PHARMACEUTICALS, INC.

By:_____

Name: Paul M. Bisaro

Title: President + CEO

ATTACHMENT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

WARNER CHILCOTT COMPANY, INC. Plaintiff, v. WATSON PHARMACEUTICALS, INC. and WATSON LABORATORIES, INC. Defendants.	DOCUMENT ELECTRONICALLY FILED Civil Action No. 2:06-CV-3491 (HAA(ES)) **STIPULATION OF DISMISSAL WITHOUT PREJUDICE**

Pursuant to Rules 41(a)(1) and 41(c) of the Federal Rules of Civil Procedure, The Plaintiff and Defendants, by their undersigned attorneys, hereby stipulate and agree that the above captioned action, including all claims, counterclaims and affirmative defenses, are dismissed **without prejudice**.

Each party will bear its own costs, disbursements and attorneys' fees.

Dated: _____, 2008

Respectfully submitted,

_____

Kevin J. McKenna, Esq.
Elvin Esteves, Esq.
GIBBONS P.C.
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EXHIBIT K

FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER

EXHIBIT L

FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER

EXHIBIT M

FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER

EXHIBIT N

FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER

EXHIBIT O

FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER